

Exhibit 5

00001

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3 UNLIMITED JURISDICTION

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7 PHILIP WONG and FREDERIC CHAUSSY,)
individually, on behalf of others)
8 similarly situated, and on behalf)
of the general public,)

9)
Plaintiff(s),)

10)
vs.)CASE: 07-cv-2446 MMC

11)
HSBC Mortgage Corporation (USA);)

12 HSBC Bank USA, N.A.; HSBC)
Holdings, Inc.; and DOES 1)

13 through 50, inclusive,)
)

14 Defendant(s).)
)

15)

16

17 DEPOSITION OF

18 AMY KU

19

20 _____
June 6, 2008

21

22

23 REPORTER: SHAARON M. SHIGIO, CSR # 12286 JOB 6914

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00199

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2 your management that -- that your loan officer's first
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4 MR. McCABE: Objection; vague and ambiguous.

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3 (Record read.)

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7 MR. SCHWARTZ: I'm referring to bank customers

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9 MR. McCABE: I'm sorry. Bank customers. Not

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23 MR. SCHWARTZ: Q. What do you mean when you

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7 should be able to, you know, lift that bar a little
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9 Q. And when you say, "with us," you mean with the
10 HSBC Family, correct?

11 A. Yes, with the family.

12 Q. So -- and you don't have a policy for granting
13 exceptions like that to potential customers other than
14 HSBC Bank customers, correct?

15 A. Not true. We will see -- if it is a potential
16 customer that doesn't bank with HSBC yet, no
17 relationship with our family yet, but we see -- we see
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21 again, "our" meaning the entire HSBC relationship --
22 then, yes, you will see this kind of request also.

23 Q. In other words, for that non-HSBC Bank
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25 seeking an exception to your -- a pricing exception,

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1 you may grant an exception if they agree to open an
2 HSBC Bank USA, N.A. account in addition to their
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4 A. No, not really. We have different pricing.
5 We have relationship pricing. We have pricing that's
6 available for customer that has a bank relationship.
7 We also have pricing that is available for customer,
8 same product line and everything for customer who
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10 It's our loan officer's job to profile the
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21 But if there is one exception arise, it will be a
22 compensating factor for us when we ask for exception
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24 that this customer has a relationship with us.

25 Q. With the HSBC Family?

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2 Q. And the relationship pricing you referenced,
3 that means that typically you will offer incentives or
4 better prices to existing HSBC Bank customers, correct?

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6 because there will be minimum credit requirement,
7 income requirement, and everything.

8 Q. Assuming two customers who have identical
9 credit scores and identical income, you will give
10 better pricing, relationship pricing, to the existing
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12 A. No, if they qualify. Again, the customer can
13 still choose to go for a normal program versus program
14 A or B. You see what I'm trying to tell you?

15 Q. Not really.

16 A. Okay. One customer may qualify for multiple
17 programs, so our job is to actually show the customer
18 what are the options available for them, and then they
19 get to pick and choose which one they want to go for.

20 Q. Right, I understand that, but in terms -- my
21 question had to do with relationship pricing. So
22 relationship pricing means you get a better price on
23 your mortgage if you have a relationship with HSBC
24 Bank, correct?

25 A. Yes.

00114

1 your loan officers are working?

2 A. True.

3 Q. If we wanted to find out how much time loan

4 officers spent at any particular location, be it the

5 home office or the branch or the loan production office

6 or at a client site, we'd have to talk to the loan

7 officers themselves; is that right?

8 A. True.

9 Q. Your only concern was that they make the

10 sales, ultimately, right?

11 MR. McCABE: Objection; vague and ambiguous.

12 MR. SCHWARTZ: Q. In an ethical way. I'm not

13 trying to say you encouraged anyone to break the law.

14 I mean, your only concern is that they make proper

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16 THE WITNESS: Legally and ethically, yes.

17 Q. Okay. My point is, you didn't care whether

18 your loan officers made sales at the branch, at their

19 home office, you know, on the phone at a loan

20 production office or out at some site other than that?

21 It wasn't important to you where the sale was made,

22 correct?

23 A. Correct.

24 Q. And in the same vein, you didn't really track

25 loan officers' precise hours, correct?

00115

1 A. Correct.

2 Q. You never gave loan officers a quota saying
3 you need to spend X percentage of your time outside of
4 the branch and X percentage of your time inside the
5 branch, correct?

6 A. Correct.

7 Q. And you never disciplined a loan officer? By
8 discipline, I mean any kind of corrective action or
9 termination for not spending enough time outside the
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12 A. Correct.

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17 A. True, there is no percentage.

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25 Q. So, for example, you helped work on ensuring

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1 Q. Have you had discussions with loan officers
2 about waiving application fees to HSBC's application --
3 HSBC Mortgage's application fees in order to make a
4 loan deal more attractive to a customer?

5 A. It is strongly discouraged. Company policy is
6 to submit the appropriate application fee along with
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8 Q. When did that policy come out to your
9 knowledge?

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12 Q. Other than Mr. Wong, have other loan officers
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2 Q. Which other loan officers have had to repay
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4 A. As I recall Abby Ho.

5 Q. Any others?

6 A. No.

7 Q. To the best of your knowledge, is the \$325
8 application fee, is that a nationwide -- is that the
9 same standard?

10 A. To the best of my knowledge, yes.

11 Q. And to the best of your knowledge, nationwide,
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17 yes.

18 MR. SCHWARTZ: Now about Fred Chaussy. Before
19 his -- well, you knew -- well, I'll just show you the
20 document. Exhibit 13 to the deposition, NKA 1910.

21 [Whereupon, Deposition Exhibit 13, an
22 E-mail dated 2/3/2007, was marked for
23 identification.]

24 THE WITNESS: Thank you.

25 MR. SCHWARTZ: Q. Ms. Ku, you recall you were

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1 CERTIFICATE OF REPORTER

2

3 I, SHAARON M. SHIGIO, a Certified Shorthand
4 Reporter, hereby certify that the witness in the
5 foregoing deposition was by me duly sworn to tell the
6 truth, the whole truth and nothing but the truth in the
7 within-entitled cause;

8 That said deposition was taken down in shorthand
9 by me, a disinterested person, at the time and place
10 therein stated, and that the testimony of the said
11 witness was thereafter reduced to typewriting, by
12 computer, under my direction and supervision;

13 That before completion of the deposition, review
14 of the transcript {X} was { } was not requested. If
15 requested, any changes made by the deponent (and
16 provided to the reporter) during that period allowed
17 are appended hereto.

18 I further certify that I am not of counsel or
19 attorney for either or any of the parties to the said
20 deposition, nor in any way interested in the events of
21 this cause, and that I am not related to any of the
22 parties thereto.

23 DATED:

24

25 Shaaron M. Shigio, CSR #12286